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10 IN THE UNITED STATES DISTRICT COURT
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12 EASTERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 PLAINTIFF,

v.

15 VANESSA ARAUZA, PEDRO DUARTE
16 SANCHEZ, AND LUIS ENRIQUE HIGUERA
LOPEZ,

17 DEFENDANTS.

CASE NO. 1:22-CR-00305-JLT-SKO

STIPULATION REGARDING DISCOVERY; AND
PROTECTIVE ORDER

19 1. As described more fully below, the parties, pursuant to Rule 16 of the Federal Rules of
20 Criminal Procedure, for the reasons set forth below, hereby stipulate, agree, and jointly request that the
21 Court enter a Protective Order in this case restricting the use and dissemination of certain materials
22 containing personal identifying information (“PII”) of real persons and other confidential information of
23 witnesses, co-defendants, and third parties¹.

24 2. As part of its investigation in the above-captioned case, the government is in possession
25 of materials relating to the charges against the defendants, including voluminous documents that contain
26 PII and other confidential information of real persons, including, among other things, personal names,

27 28 ¹ The term “third party” as used herein refers to a person who is neither a party to this
stipulation, nor a party to this case but who appears in the discovery that is the subject of this protective
order.

1 addresses, and dates of birth. These real persons are witnesses, co-defendants or third parties to this
2 case. The government seeks to provide these materials to counsel for the defendants.

3 3. The purpose of the proposed Protective Order is to prevent the unauthorized
4 dissemination, distribution, or use of materials containing the PII or other confidential information of
5 others. If this information is disclosed without protective measures, or to defendants without limitation,
6 it will risk the privacy and security of the people to whom the information relates. The information
7 could itself be used to further criminal activity if improperly disclosed or used. The United States has
8 ongoing statutory and ethical obligations to protect the individuals whose PII is contained in these
9 documents.

10 4. Due to the large quantity of discovery² that contains PII, redacting all privacy-protected
11 information would be difficult and time-consuming. Accordingly, the parties jointly request a Protective
12 Order that will permit the government to produce discovery that is unredacted, but preserves the privacy
13 and security of victims, witness, and third parties. The parties agree that the following conditions, once
14 ordered by the Court in the proposed Protective Order, will serve the government’s interest in
15 maintaining the privacy and security of victims and third parties, while permitting the Defense Team to
16 understand the United States’ evidence against the defendants.

17 5. This Court may enter protective orders pursuant to Rule 16(d) of the Federal Rules of
18 Criminal Procedure, Local Rule 141.1, and its general supervisory authority.

II. PROPOSED PROTECTIVE ORDER

A. Protected Materials

21 6. This Order pertains to all discovery provided or made available to defense counsel in this
22 case (hereafter, collectively “Protected Materials”).

23 7. For purposes of the Protective Order, the term “Personal Identifying Information” (“PII”)
24 includes any information within the definition of a “means of identification” under 18 U.S.C. §
25 1028(d)(7) or any information within the definition of an “access device” under 18 U.S.C. § 1029(e)(1).³

26 ² The term “discovery” refers to materials of any kind provided to the defense by the
27 Government (except as filed with the Court) pursuant to its obligations under Rules 16 or 26.1 of the
28 Federal Rules of Criminal Procedure, the Fifth Amendment of the United States Constitution, or Title
18, United States Code, Section 3500.

³ The term “PJI” as defined herein shall not include the names of law enforcement officers.

1 8. To the extent that notes are made that memorialize, in whole or in part, the PII in any
2 Protected Materials, or to the extent that copies are made for authorized use by members of the Defense
3 Team, such notes, copies, or reproductions become Protected Materials, subject to the Protective Order
4 and must be handled in accordance with the terms of the Protective Order.

5 **B. Defense Team**

6 9. For purposes of this Order, the term “Defense Counsel” refers to the defendant’s counsel
7 of record.

8 10. For purposes of this Order, the term “Defense Team” refers to (1) the defendant’s counsel
9 of record, (2) other attorneys at defense counsel’s law firm or defense organization who may be
10 consulted regarding case strategy in the above-captioned matter, (3) defense investigators who are
11 assisting defense counsel with this case, (4) retained experts or potential experts, and (5) paralegals,
12 legal assistants, and other support staff to defendant’s counsel of record providing assistance on this
13 case. The term “Defense Team” does not include defendant, the defendant’s family, or other associates
14 of the defendant unless they are in categories 1 to 4 in this paragraph.

15 11. Defense Counsel must provide a copy of this Order to all members of the Defense Team.

16 a) Defense Counsel must obtain written acknowledgement from members of the
17 Defense Team that they are bound by the terms and conditions of this Protective Order before
18 providing any Protected Materials to members of the Defense Team. The written
19 acknowledgement need not be disclosed or produced to the United States unless ordered by the
20 Court.

21 b) Members of the Defense Team who are employees of the Federal Defender’s
22 Office who have signed a confidentiality agreement as part of their employment are not required
23 to sign a written acknowledgement. The confidentiality agreement need not be disclosed or
24 produced to the United States unless ordered by the Court.

25 **C. Disclosure of Protected Materials**

26 12. The Defense Team shall not permit anyone other than the Defense Team to have
27 possession of the Protected Materials, including the defendants themselves.

28 13. No person or party shall use any Protected Materials or information derived from

1 Protected Materials produced in this action for any purpose other than use in the above-captioned case.
2 All Protected Materials shall be used solely for the purpose of conducting and preparing for pre-trial,
3 trial, post-trial, and appellate proceedings (both direct and collateral) in this criminal action and for no
4 other purposes whatsoever, and shall not be used for the economic or other benefit of the defendants, or
5 any third party. Protected Materials may be disclosed only to the categories of persons and under the
6 conditions described in this Order.

7 14. Defendants may review Protected Materials in this case only in the presence of a member
8 of the Defense Team, and his or her Defense Counsel shall ensure that each defendant is never left alone
9 with any Protected Information. Defendants may not copy, keep, maintain, or otherwise possess any of
10 such Protected Materials at any time. Defendants must return any Protected Materials to the Defense
11 Team at the conclusion of any meeting at which defendants review the Protected Materials. Defendants
12 may not take any Protected Materials out of the room in which they are meeting with the Defense Team.
13 Defendants may not write down or memorialize any PII contained in the Protected Materials. At the
14 conclusion of any meeting with defendants, the member of the Defense Team present shall take with
15 him or her all Protected Materials. At no time, under any circumstances, will any Protected Materials be
16 left in the possession, custody, or control of the defendant, whether or not he or she is incarcerated,
17 except as provided below.

18 15. If, during the pendency of the case, defendants request a copy of the Protected Materials
19 from Defense Counsel, Defense Counsel may provide a copy of the Protected Materials to the defendant
20 provided that Defense Counsel ensures that all PII contained in the Protected Materials is fully redacted.
21 If Defense Counsel provides a redacted copy to defendants subject to these conditions, Defense Counsel
22 or a member of the Defense Team must contemporaneously memorialize in writing that it has fully
23 redacted PII from the Protected Materials and complied with this Order. This written certification need
24 not be disclosed or produced to the United States unless ordered by the Court. Materials redacted in this
25 fashion are not subject to the restrictions in paragraph 14 above.

26 16. The Defense Team may review Protected Materials with a witness or potential witness in
27 this case. Before being shown any portion of the Protected Materials, however, any witness or potential
28 witness must be informed of the existence of the Protective Order and given a copy of the Protective

1 Order. No witness or potential witness may retain Protected Materials (whether redacted or not), or any
2 copy thereof, after his or her review of those materials with the Defense Team is complete.

3 17. This Order does not limit employees of the United States Attorney's Office for the
4 Eastern District of California from disclosing the Protected Materials to members of the United States
5 Attorney's Office, law enforcement agencies, the Court, and defense.

6 18. Defense Counsel shall advise the United States with reasonable notice of any subpoenas,
7 document requests, or claims for access to the Protected Materials by third parties if Defense Counsel is
8 considering disseminating any of the Protected Materials to a third party, in order that the United States
9 may take action to resist or comply with such demands as it may deem appropriate.

10 **D. Ensuring Security of Protected Materials**

11 19. The Defense Team shall maintain the Protected Materials safely and securely, and shall
12 exercise reasonable care in ensuring the security and confidentiality of the Protected Materials by storing
13 the Protected Materials in a secure place, such as a locked office, or otherwise secure facility where
14 visitors are not left unescorted.

15 20. A copy of the Protective Order must be stored with the discovery, in paper form and
16 electronically.

17 21. To the extent that Protected Materials, or any copies or reproductions thereof, are stored
18 electronically, the Protected Materials will be stored on a password-protected or encrypted storage
19 medium, including a password-protected computer, or device. Encryption keys must be stored securely
20 and not written on the storage media that they unlock.

21 22. If a member of the Defense Team makes, or causes to be made, any further copies of any
22 of the Protected Materials, Defense Counsel will ensure that the following notation is written, stamped
23 or inscribed on whatever folder, container, or media contains the copies: "PROTECTED MATERIALS-
24 SUBJECT TO PROTECTIVE ORDER." For example, if Defense Counsel makes a copy of a disc or
25 physical file containing Protected Materials, the duplicate disc or file must be encrypted and marked
26 with the above notation. In the event that the Defense Team makes or causes to be made copies of the
27 Protected Materials for purposes of hearing or trial, it does not need to include this inscription.

1 **E. Filings**

2 23. In the event that a party needs to file Protected Materials containing PII, or materials
3 otherwise identified as containing confidential information of victims, witnesses, or third parties with
4 the Court, or disclose PII in court filings, the filing should be made under seal as provided for by the
5 local rules. If the Court rejects the request to file such information under seal, the party seeking to file
6 such information shall provide advance written notice to the other party to afford such party an
7 opportunity to object or otherwise respond to such intention, including by making a request that the
8 filing party redact the PII or confidential materials. If the other party does not object to the proposed
9 filing, the party seeking to file such information may file the information without redaction.

10 **F. Conclusion of Prosecution**

11 24. The provisions of this Order shall not terminate at the conclusion of this prosecution. All
12 Protected Materials subject to the Protective Order maintained in the Defense Team's files shall remain
13 subject to the Protective Order unless and until such Order is modified by the Court.

14 25. Upon final disposition of the case, including exhaustion of direct and collateral appellate
15 proceedings, Defense Counsel shall return the Protected Materials to the government, or certify in
16 writing that the Protected Materials have been destroyed, but may retain copies of the Protected
17 Materials if the copies of been redacted to remove all PII as defined herein. If Defense Counsel wishes
18 to maintain the Protected Materials in the Defense Team's files beyond final disposition of the case
19 without redaction, Defense Counsel may seek modification of this provision from the Court.

20 26. If Defense Counsel retains a redacted copy of the Protected Materials, Defense Counsel
21 or a member of the Defense Team must contemporaneously attest in writing that it has fully redacted PII
22 from the Protected Materials and complied with this Order. This written certification need not be
23 disclosed or produced to the United States unless ordered by the Court.

24 **G. Termination or Substitution of Counsel**

25 27. In the event that there is a substitution of counsel prior to final disposition of the case,
26 new counsel of record must join this Protective Order before any Protected Materials may be transferred
27 from the undersigned defense counsel to the new defense counsel. New defense counsel then will
28 become Defense Counsel for purposes of this Protective Order, and become Defense Team's custodian

1 of materials, and shall then become responsible, upon the conclusion of appellate and post-conviction
2 proceedings, for complying with the provisions set forth above. All members of the Defense Team,
3 whether current or past counsel, are at all times subject to the Protective Order and are not relieved by
4 termination of representation or conclusion of the prosecution.

5 **H. Modification of Order**

6 28. Nothing in this Order shall prevent any party from seeking modification to the Order or
7 from objecting to discovery it otherwise believes to be improper. Nothing in this Order shall prevent
8 any party from seeking a more restrictive protective order with regard to particular discovery items.

9 **I. Violation of Order**

10 29. Any person who willfully violates this Order may be held in contempt of court and
11 maybe subject to monetary or other sanctions as deemed appropriate by the Court. This provision does
12 not expand or narrow the Court's contempt powers.

13 **J. Application of Laws**

14 30. Nothing in this Order shall be construed to affect or comment on the admissibility or
15 discoverability of the Protected Materials.

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1 31. Nothing in this Order shall be construed to affect the application or and the parties'
2 compliance with the Federal Rules of Criminal Procedure, Local Rules, and applicable statutes.

3 Date: May 16, 2023

PHILLIP A. TALBERT
United States Attorney

7 Date: May 17, 2023

5 /s/ *Kimberly A. Sanchez*
6 KIMBERLY A. SANCHEZ
7 Assistant United States Attorney

8 /s/ *Ryan Roth*
9 RYAN ROTH
10 Counsel for Defendant
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14 **ORDER**
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16 IT IS SO ORDERED.
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DATED: 5/24/2023

Sheila K. Oberto
16 SHIELA K. OBERTO
17 UNITED STATES MAGISTRATE JUDGE
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